U.S. Department of Justice

U.S. Trustee Program

Press Release

U.S. Department of Justice

Executive Office for United States Trustees

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AUDITS OF BANKRUPTCY PAPERS

BY INDEPENDENT PUBLIC ACCOUNTANTS

START IN OCTOBER

WASHINGTON, D.C.–On October 20, 2006, independent public accountants will commence audits of papers filed in individual bankruptcy cases, the Executive Office for U.S. Trustees (EOUST) announced today. The debtor audit requirement was enacted as part of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA). It applies to chapter 7 and chapter 13 cases filed by individuals on or after October 20, 2006. The audits are to determine the accuracy, veracity, and completeness of petitions, schedules, and other information required to be filed or provided in a bankruptcy case.

At least one out of every 250 individual chapter 7 and chapter 13 cases filed in a judicial district will be randomly selected for audit. In addition, an individual debtor's chapter 7 or chapter 13 case will be selected for audit if the debtor's income or expenses reflect greater than average variance from the statistical norm of the district in which the case was filed.

To support the information disclosed under penalty of perjury in his or her bankruptcy documents, a debtor whose case is chosen for audit will be requested to provide information to an independent firm under contract with the U.S. Trustee Program. The audit will be performed by a certified public accountant or independent licensed public accountant selected through competitive bidding. The audit firm will ask the debtor to provide the firm with documents such as tax returns, account statements, and pay stubs, and the debtor is under a statutory duty to cooperate with the audit firm. This duty is in addition to the debtor's statutory duty to file these documents with the court, and to provide these documents to designated parties.

The audit is not the same as a tax audit or financial audit conducted in accordance with "generally accepted auditing standards," because bankruptcy documents are typically not prepared using generally accepted accounting principles. Therefore, as required under BAPCPA, the audit firm will follow auditing standards developed by the U.S. Trustee Program. These standards are published in the Federal Register at 71 Fed. Reg. 58005 (Oct. 2, 2006).

The audit firm will review the debtor's information and file a report with the bankruptcy court specifying any material misstatement of income, expenditures, or assets. If a material misstatement is found and is not adequately explained, the debtor may be subject to civil enforcement actions by the U.S. Trustee and/or criminal prosecution by the U.S. Attorney. A civil enforcement action may also be brought against a debtor who does not satisfactorily explain a failure to provide papers requested by the auditor.

The U.S. Trustee Program is the Justice Department component that protects the integrity of the bankruptcy system by overseeing case administration and litigating to enforce the bankruptcy laws. The Program has 95 offices in 21 regions. By law, Alabama and North Carolina are not part of the U.S. Trustee Program; in those states, bankruptcy court officials known as Bankruptcy Administrators will supervise debtor audits.

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